

★ **Roll Call Number**

Agenda Item Number

25

Date July 24, 2006

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held July 6, 2006, the members recommended by a vote of 11-0 for **APPROVAL** of a request from Rick and Stacy Brown (owners) 3015 Wright Street, for vacation and conveyance of the north/south alley between Wright Street and East 9th Street from East Hull Avenue to East Tiffin Avenue, with the restriction that at this time only the area north of the commercial district boundary be vacated with the remainder of the alley being vacated after the property owners have time to discuss an easement arrangement.

MOVED by _____ to receive and file, and to refer to the City Manager for further processing in accordance with standard City property disposition procedures.

FORM APPROVED:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

(11-2006-1.15)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| BROOKS | | | | |
| COLEMAN | | | | |
| KIERNAN | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| VLASSIS | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | | APPROVED | |

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

July 24, 2006

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held July 6, 2006, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|--------------------|-----|------|------|--------|
| David Cupp | X | | | |
| Shirley Daniels | | | | X |
| Dann Flaherty | | | | X |
| Bruce Heilman | X | | | |
| Jeffrey Johannsen | | | | X |
| Greg Jones | X | | | |
| Frances Koontz | X | | | |
| Kaye Lozier | X | | | |
| Brian Meyer | X | | | |
| Brian Millard | X | | | |
| Brook Rosenberg | | | | X |
| Mike Simonson | X | | | |
| Kent Sovern | X | | | |
| Tim Urban | X | | | |
| Marc Wallace | X | | | |

APPROVAL of a request from Rick and Stacy Brown (owners) 3015 Wright Street, for vacation and conveyance of the north/south alley between Wright Street and East 9th Street from East Hull Avenue to East Tiffin Avenue, with the restriction that at this time only the area north of the commercial district boundary be vacated with the remainder of the alley being vacated after the property owners have time to discuss an easement arrangement. (11-2006-1.15)

Written Responses

4 In Favor

3 In Opposition

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Staff recommends approval of the requested vacation and conveyance subject to the provision of easements for all existing utilities.



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing the vacation and conveyance of the subject alley in order for the adjoining property owners to secure the alley from pass through traffic. The applicant reports that speeding and litter in the alley is a constant problem.
2. **Size of Site:** 14' x 600'.
3. **Existing Zoning (site):** "R1-60" Single-Family Residential, "C-1" Neighborhood Retail Commercial and Gambling Games Prohibition Overlay District.
4. **Existing Land Use (site):** Gravel alley.
5. **Adjacent Land Use and Zoning:**
 - North* – "R1-60", Use is single-family residential.
 - South* – "C-1", Use is small scale commercial.
 - East* – "R1-60", Use is single-family residential.
 - West* – "R1-60", Use is single-family residential.
6. **General Neighborhood/Area Land Uses:** The surrounding area consists primarily of single-family residential uses with neighborhood commercial uses along the East Hull Avenue corridor.
7. **Applicable Recognized Neighborhood(s):** Highland Park Neighborhood.
8. **Relevant Zoning History:** N/A.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential and Commercial: Pedestrian-Oriented Neighborhood Node.
10. **Applicable Regulations:** The Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Utilities:** The subject alley contains an overhead single-phase primary electric service. MidAmerican Energy Company has requested that an easement be reserved to allow for the continued operation and maintenance of the facilities.
2. **Traffic/ Access:** The alley provides access to parking for some of the businesses at the south end of the block. The same individual owns the properties on both sides of the alley at the southern end of the block. The property on the west side of the alley is used for parking. The rear portion of this lot is used in common with the parking lot to the west, which also has access to Wright Street. It is staff's understanding that these two property owners do not have a formal access agreement and utilized each other properties for access at each other's discretion. The proposed vacation and conveyance would not alter this arrangement.

The remaining affected property owners to the north have consented to the vacation. These properties are accessed from the adjoining streets. The proposed vacation will have minimal impact on traffic in the area.

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SUMMARY OF DISCUSSION

Jason VanEssen: Presented staff report and recommendation. Noted there were signed consent cards for all the abutting property owners. It does not appear anyone accesses their property from the alley. Explained there are gentlemen's agreements for shared parking. Noted the applicant wanted to close off the alley and anticipated there would be some gating done but would allow utility trucks to access utilities.

Stacy Brown, 3015 Wright Street: Requested shutting down the residential portion of the alley; it is a public nuisance used for dumping garbage and a lot of spray painting is done. There have been houses egged and rocks thrown into yards and people drive fast down the alley.

Bruce Heilman: Asked what she envisions doing with the alley.

Stacy Brown: Explained the neighbors would like to put gates up at every lot.

Bruce Heilman: Asked if there would be more of a problem if there were gates.

Stacy Brown: Wants to clean up the neighborhood and stop the through traffic.

The following individual spoke in opposition:

Steve Peglow, owner of five retail commercial properties in the neighborhood. Thought there was a grandfathered easement on the alley for sharing by everyone. It is a major access for the retail to exit on the southwest side of Hull Avenue. Expressed opposition to "gating" the alley. Suggested there were other solutions than selling the alleys to other people. Indicated he was not aware of the request until last week and did not know the alley was up for sale. Noted the alley has been the main detour for construction on Hull Avenue.

Bruce Heilman: Asked if the vacation were limited to the north of his property, if he would be amenable to it.

Steve Peglow: Suggested there should be a better solution.

Tim Urban: Asked if he had any objection to vacation of the alley north of the commercial district boundary.

Steve Peglow: Had not studied it; his access comes from Hull.

Tim Urban: Suggested allowing vacation of the alley north of the commercial zoning district boundary.

Kent Sovern: Would be inclined to support vacation north of the commercial zoning district boundary.

Steve Peglow: Beer trucks don't go down the alley; he would not have any problem with that.

Stacy Brown: Noted the house next to the opponent's property is zoned commercial, but would like it to be gated. They don't want to block the access to the business, just want it vacated where the residential begins.

CHAIRPERSON OPENED THE PUBLIC HEARING

Mike Ludwig: Noted vacating in that way would cause a dead-end alley with no opportunity for turn-around. Property owners adjacent have consented to the vacation. There are no access concerns for the parking of the business.

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Roger Brown: Explained it is not known what the status of the agreement is between the two property owners for access. A dead-end street is not preferable, but it serves the needs of the adjoining property owners. The city and staff should not be in the position of adjudicating the situation between the two property owners, but should be left to the property owners to work out.

Bruce Heilman: Was not opposed to vacating the alley, but should not be gated. The key is where to allow a gate to go, and it would have to be stipulated that a locked gate could not go any further south of the commercial zoning district boundary.

Jason VanEssen: Noted that could be part of the recommendation to Council. There is time left before vacation would occur and there is a lot of opportunity for the commercial property owners to meet and iron out access issues.

Brian Millard: Asked what would happen if the entire alley were vacated, if some property owners declined to purchase their portion of the alley.

Jason VanEssen: Explained the alley vacation process.

David Cupp: Suggested everyone meet and work out details to ensure access to the utilities and recommended continuing to allow time to meet.

Jason VanEssen: Noted action could be taken and a recommendation could be made.

Tim Urban: Expressed support for vacating north of the commercial zoning district boundary.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Kent Sovern: Moved to vacate the entire alley and prohibit the erection of any barrier until the northern end of the commercial district.

Tim Urban: Offered a friendly amendment to restrict the vacation to the area north of the commercial district boundary at this time and the remaining alley to be vacated after the property owners have time to discuss an easement arrangement.

Kent Sovern: Accepted the friendly amendment.

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:dfa

Attachment

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| | | | | | | |
|---|--|------|--------------|---------------------------------------|--------------|--------------|
| Request from Rick and Stacy Brown (owners) 3015 Wright Street, for vacation and conveyance. | | | | File # | | |
| | | | | 11-2006-1.15 | | |
| Description of Action | Vacate and convey the north/south alley between Wright Street and East 9 th Street from East Hull Avenue to East Tiffin Avenue. | | | | | |
| 2020 Community Character Plan | Low-Density Residential and Commercial: Pedestrian-Oriented Neighborhood Node. | | | | | |
| Horizon 2025 Transportation Plan | No Planned Improvements. | | | | | |
| Current Zoning District | "R1-60" One-Family Low-Density Residential and "C-1" Neighborhood Retail Commercial Districts. | | | | | |
| Proposed Zoning District | "R1-60" One-Family Low-Density Residential and "C-1" Neighborhood Retail Commercial Districts. | | | | | |
| Consent Card Responses | In Favor | | Not In Favor | | Undetermined | % Opposition |
| Inside Area | | | | | | |
| Outside Area | 5 | | 3 | | 0 | N/A |
| Plan and Zoning Commission Action | Approval | 11-0 | | Required 6/7 Vote of the City Council | Yes | |
| | Denial | | | | No | N/A |

Rick Brown - Wright St., E 9th St. - Tiffin Ave., E. Hull Ave.

11-2006-1.15



Item 11-2006-1.15Date 7/3/06

25

I ☒ am ☐ am not in favor of the request.

(Circle One)

RECEIVED

JUL 07 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name

Gary R Whitmer

Signature

Gary R Whitmer

Address

2023 Wright St.

Reason for opposing or approving this request may be listed below:

You get trash dumped in alley.
Kids trespass through yards and
do vandalism. Caused damage to
fences in the neighborhood alley.

RECEIVED AFTER P-2 meetingItem 11-2006-1.15Date 6-30-06I ☒ am ☐ am not in favor of the request.

(Circle One)

RECEIVED

JUL 06 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name

JASON SOUTHWARD

Signature

Jason Southward

Address

3123 WRIGHT ST.

Reason for opposing or approving this request may be listed below:

LATE NIGHT TRAFFIC (FROM BAR), OUR FENCE HAS BEEN
HIT FROM ALLEY TRAFFIC, WE HAVE HAD ALLEY TRAFFIC
DRIVE INTO OUR YARD AND DESTROY PLANTS. THERE IS
OFTEN LATE NIGHT PEDESTRIAN TRAVEL (TEENS).
GRAFFITI ON GARAGES + FENCES.

Item 11-2006-15Date 6-28-2006I ☒ (am) (am not) in favor of the request.

(Circle One)

RECEIVED

JUL 03 2006

COMMUNITY DEVELOPMENT
DEPARTMENTPrint Name Rick Stacey BrownSignature [Signature] Stacey BrownAddress 3015 Wright St.

Reason for opposing or approving this request may be listed below:

Patrons from the bar use the ally when they're
~~too drunk~~, then my privacy fence gets hit;
at least once a year. Kids also spray paint the
garages. It's also an eyesore. It makes our
neighborhood look scruffy.

Item 11-2006-15Date 6-28-06I ☒ (am) (am not) in favor of the request.

(Circle One)

RECEIVED

JUL 03 2006

COMMUNITY DEVELOPMENT
DEPARTMENTPrint Name Diane HarperSignature Diane HarperAddress 3019 Wright St., DSM

Reason for opposing or approving this request may be listed below:

Our fence has been damaged 4 times by
someone speeding through the alley. This
last time major damage was done. We're
afraid to trim weeds in the alley for fear
of needles that we have found, & tired
of hauling away junk that has been
left by someone in the alley. ^{we want a} safe neighborhood

Item

11-2006-1.15

Date

29
July 3, 2006

1 (am)

(am not) in favor of the request.

(Circle One)

RECEIVED

JUL 06 2006

Print Name

Margorie Thompson

COMMUNITY DEVELOPMENT
DEPARTMENT

Signature

Margorie Thompson

Address

3016 E. 9th St

Reason for opposing or approving this request may be listed below:

Item 11-2006-1.15

Date JUNE 24, 2006

I (am) (am not) in favor of the request.

(Circle One)

only exit from
Parking lots

Print Name

Steve Paglow

Signature

S. Paglow

Address

830 thru 838 Hull

Reason for opposing or approving this request may be listed below:

This Property at
Hull Avenue is located in a Business
District SINCE 1896 this alley serves
as a major traffic flow. My guess
is between 200 to 300 cars exit that alley
daily, & yet it's the only parking for beer
trucks, ANY LARGE truck. This alley serves ab
OF PEOPLE

Item 11-2006-1.15

Date 7/1/06

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

JUL 06 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name

Gm Clayton

Signature

Address

852 Hull Ave

Reason for opposing or approving this request may be listed below:

Item 11-2006-1.15

Date 6/28/06

25

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED

JUL 06 2006

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Leonard + Mary Schlaht

Signature Mary Schlaht

Address 3103 - Wright St.

Reason for opposing or approving this request may be listed below:

Mulberry trees growing from stumps of trees taken out
years back over left now behind owners fences in alley.
Owners have never cleaned or cut mess out. Weeds as
high as left fences + more never cleaned out. What would
it be like if Alley closed. What would we do with them.
I've called city off + on years see if do something. Nothing done